



MITCHELL E. DANIELS, JR., *Governor*

JAMAL L. SMITH, *Executive Director*

ICRC No.: EMse11100693
EEOC No.: 24F-2012-00054

██████████,
Complainant,

vs.

ELKHART REHABILITATION CENTER.
Respondent.

NOTICE OF FINDING

The Deputy Director of the Indiana Civil Rights Commission ("Commission"), pursuant to statutory authority and procedural regulations, hereby issues the following findings with respect to the above-referenced case. Probable cause exists to believe that an unlawful discriminatory practice has occurred. 910 IAC 1-3-2(b)

On October 26, 2011, ██████████ ("Complainant") filed a complaint with the Commission against Elkhart Rehabilitation Center ("Respondent") charging sex (pregnancy) discrimination in violation of Title VII of the Civil Rights Act of 1964, as amended, (42 U.S.C. §2000e, et seq.) and the Indiana Civil Rights Law (IC 22-9, et seq.) Accordingly, the Indiana Civil Rights Commission has jurisdiction over the parties and the subject matter.

An investigation has been completed. Both parties have been given the opportunity to submit evidence. Based upon a full review of the relevant files and records and the final investigative report, the Deputy Director now finds the following:

The issue presented to the Commission is whether Complainant was terminated due to her pregnancy. In order to prevail, Complainant must show that: (1) she is a member of a protected class; (2) she suffered and adverse employment action; (3) she was meeting Respondent's legitimate business expectations and; (4) male employees are treated more favorably under similar circumstances.

It is evident that Complainant falls within a protected class by virtue of the fact that she is female and was pregnant and that she suffered an adverse action when she was removed from the work schedule on October 7, 2011. The only remaining questions are whether Complainant was meeting Respondent's expectations or, if not, whether male employees are treated more favorably under similar circumstances.

The investigative record shows that during Complainant's pregnancy she submitted a doctor's statement to Respondent indicating that she needed to be placed on light duty. The evidence shows Respondent advised Complainant that she would be taken off the schedule because her restrictions were prescribed for a non-work related issue. The evidence shows that Complainant was unable to perform the essential functions of her Certified Nursing Assistant position, which includes heavy lifting. The Pregnancy Discrimination Act ensures that if a woman is temporarily unable to perform her job due to a medical condition related to pregnancy



or childbirth, the employer must treat her in the same way it treats any other temporarily impaired employee, such as providing light duty, alternative assignments, disability leave or unpaid leave. Therefore, Complainant has been treated less-favorably than male employees who have similar, short-term impairments.

Based upon the above findings, probable cause exists to believe that an unlawful discriminatory practice occurred. A public hearing is necessary to determine whether a violation of the Indiana Civil Rights Law occurred as alleged in the above-referenced case. IC 22-9-1-18, 910 IAC 1-3-5 The parties may elect to have these claims heard in the circuit or superior court in the county in which the alleged discriminatory act occurred. However, both parties must agree to such an election, or the Indiana Civil Rights Commission will hear this matter. IC 22-9-1-16, 910 IAC 1-3-6

June 12, 2012
Date

Joshua S. Brewster, Esq.,
Deputy Director
Indiana Civil Rights Commission

SERVICE LIST